

YOUTH SERVICES POLICY

Title: Drug-Free Workplace Next Annual Review Date: 04/22/2014	Type: A. Administrative Sub Type: 2. Personnel Number: A.2.7
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References: La. R.S. Title 40, 49:1001 through 1015; 30:2173(2) and 32:1502(5); American Federation of Government Employees v. Roberts, 9 F.3d 1464 (9th Cir. 1993) and American Federation of Government Employees Local 2391 v. Martin, 969 F.2d 788 (9th Cir. 1992); Division of Administration, Office of State Purchasing Bid Laws; 69 FR 19644, Executive Order No. BJ 08-69 "State Employee Drug Testing Policy"; ACA Standards 2-CO-1C-20 (Administration of Correctional Agencies) and 4-JCF-6D-03 (Performance Based Standards for Juvenile Correctional Facilities; 2-7164-1 (Standards for Juvenile Probation and Aftercare Services); YS Policy Nos. A.2.1 "Employee Manual", A2.5 "Family and Medical Leave of Absence", A.2.11 "Employee Assistance Program", A.2.12 "Personnel Records", and C.5.1 "Performance Data and Information"	
STATUS: Approved	
Approved By: Mary L. Livers, Deputy Secretary	Date of Approval: 04/22/2013

I. AUTHORITY:

Deputy Secretary of Youth Services (YS) as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

II. PURPOSE:

To establish guidelines for employee drug screens and drug/alcohol testing and substance abuse training.

III. APPLICABILITY:

This policy applies to all staff employed by YS.

Unit Heads are responsible for ensuring the procedures set forth in the policy are adhered to and for conveying the contents of this policy to all YS employees.

IV. DEFINITIONS:

Confirmatory Test - Drug testing conducted by a CAP-FUDT or SAMHSA certified laboratory after a "positive" result on an initial screen for the presence of drugs.

Contracted Health Care Provider (CHP) - Contracted licensed practitioners responsible for the physical and mental well-being of the secure care youth population. Services include medical, dental, and mental health services, nursing, pharmacy, personal hygiene, dietary services, health education, and environmental conditions.

Drug Testing - For the purpose of this policy, drug testing programs will generally be comprised of two testing components: 1) initial drug screen; and 2) confirmatory test. Performing a confirmatory test may be contingent upon the results of the initial drug screen.

Human Resource (HR) Liaison – The staff person designated by the Unit Head with the responsibility for collecting and retaining documents pertaining to drug / alcohol screen/test results of employees.

Illegal Substances - Controlled dangerous substances as defined in La. R.S. Title 40, alcohol, over the counter drugs, or any substance declared contraband or prohibited by policy and/or practice.

Initial Drug Screen - The first analytical procedure to detect the presence of drugs or metabolites using approved drug-testing instruments. (See Section VIII.A. for additional information.) The results of the initial drug screen are to be used solely to determine the need for a confirmatory test.

Medical Review Officer (MRO) - A licensed physician holding either a Doctor of Medicine (M.D.) or Doctor of Osteopathy (D.O.) degree who has:

- Knowledge about and clinical experience in controlled substance abuse disorders,
- Detailed knowledge of alternative medical explanations for laboratory “positive” drug test results,
- Knowledge about issues relating to adulterated and substituted specimens, and
- Knowledge about possible medical causes for specimens reported as having an invalid result.

Occupational Health Clinic (OHC) - Any general hospital, or any other medical facility which operates a corporate medicine program or an employee wellness program which includes any of the following: (1) Routine commercial activities, such as pre-employment examinations, (2) mandated examinations, such as Federal Occupational Safety and Health Administration examinations, (3) routine workers' compensation cases, (4) routine medical evaluations involving establishment of product liability, (5) evaluations consigned to independent medical

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examiners, (6) employee physical programs, (7) employee wellness programs, or (8) employee drug testing programs.

“Positive” Results - Results at or above the concentration cutoff levels previously established by the Substance Abuse and Mental Health Services Administration (“SAMHSA”), in a publication entitled “Mandatory Guidelines for Federal Workplace Drug Testing Programs” located in the Federal Register. A table of the specific cutoff levels that will be used for initial and confirmatory tests appear on the attached “Initial and Confirmatory Test Cutoff Concentrations” [see Attachment A.2.7 (b)].

Safety/Security Sensitive Position - All positions within YS are considered to be safety/security sensitive positions.

Unit Head - Deputy Secretary, Facility Directors, and Regional Managers.

Unusual Occurrence Report (UOR) – A form/document [refer to YS Policy No. C.2.6 (b)] that must be completed by staff to report incidents or observations of events that may have an impact on any aspect of the agency. Employees must complete and submit a UOR prior to the end of their tour of duty on the day an incident is observed or comes to the employee’s attention in any way.

V. POLICY:

The Office of the Governor and this state have a long-standing commitment of working toward a drug-free Louisiana. Since substance abuse is a major contributor to activity which results in adjudication and is particularly detrimental to the mission of providing safety for YS employees, youth and the public, it is the Deputy Secretary's policy to promote increased employee awareness of substance abuse and to achieve and maintain a workplace free of drugs and alcohol.

In addition, staff who engage in substance abuse are less likely to enforce policies and procedures effectively to control or to prevent illicit drug and alcohol use by other employees and youth.

YS Policy No. A.2.1, Attachment (b) “Employee Rules of Conduct”, Rule #2.c., prohibits employees from reporting for or being on duty under the influence of alcohol or other intoxicants. Each employee is responsible for refraining from illegal use, possession, sale or manufacture of controlled substances, and from reporting to work or working while under the influence of or impaired by alcohol or drugs.

VI. TYPES OF TESTING:

A. Drug Testing Types Performed by CHP for Secure Care:

1. Pre-employment;
2. Random; and
3. Probable Cause / Reasonable Suspicion (includes Post-Accident and Triggering Events).

B. Drug Testing Types Performed by OHC for Secure Care:

1. Rehabilitative; and
2. Promotional.

C. Drug Testing Types Performed by OHC for CO/CBS:

1. Pre-employment;
2. Random; and
3. Probable Cause / Reasonable Suspicion
4. Post Accident;
5. Rehabilitative;
6. Promotional.

D. Pre-Employment:

Drug screening shall be conducted after a conditional offer of employment is made, but no later than the date work begins, by the contracted health care provider (CHP) for secure care staff, and by an Occupational Health Clinic (OHC) for Community Based Services (CBS) and Central Office (CO) staff.

For those who are being screened / tested for pre-employment purposes, if the initial drug screen produces a “positive” result, the prospective employee will either be referred for additional confirmatory testing or not considered for the position. No individual whose confirmatory test is “positive” shall be considered for employment.

E. Reasonable Suspicion/Probable Cause - Drugs:

These types of tests must be authorized and documented on an “Unusual Occurrence Report” (UOR) by the Unit Head/Regional Director. The UOR shall be maintained by the unit’s HR Liaison.

1. Reasonable suspicion / probable cause, initial screening/confirmatory testing may be based on any of the following:
 - a. Observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug or alcohol, or when the odor of alcohol, marijuana smoke or other substance is present;
 - b. Abnormal conduct or erratic behavior;
 - c. Arrest or conviction for a drug or alcohol-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use or trafficking (the term "trafficking" shall also mean "distribution");
 - d. Information provided by reliable and credible sources that are independently corroborated;
 - e. Newly discovered evidence that the employee tampered with a previous drug screen; and/or
 - f. Credible allegation or confirmation of involvement in a significant violation of policy which suggests drug/alcohol abuse.

F. Post Accident:

1. An employee shall be subject to drug screen/test following an accident that occurs during the course and scope of their employment that:
 - a. Involves circumstances leading to a reasonable suspicion of the employee's drug/alcohol use;
 - b. Results in a fatality;
 - c. Results or causes the release of hazardous waste as defined in La. R.S. 30:2173(2) or hazardous materials as defined in La. R.S. 32:1502(5); or
 - d. Results in any workplace injury.
2. An employee who is involved in an accident that results in property damage may be subject to a drug screen or drug/alcohol test, and the incident shall be documented on a UOR and maintained by the unit's HR Liaison.

G. Rehabilitative:

An employee who has gone into a rehabilitation program as a result of a work related incident or confirmatory “positive” drug test result must agree to and participate in a 48 month program consisting of periodic drug screens or drug/alcohol testing, at his/her own expense.

Additionally, medical professionals who are in an impaired program or who have a documented substance abuse history must agree to periodic drug screens or drug/alcohol testing throughout the course of their employment.

H. Random:

All YS employees shall be subject to random drug screening/testing. On a quarterly basis, a list of first and last names and social security numbers representing at least 5% of a Unit’s employees shall be selected at random by a computer-generated selection process through Public Safety Services (PSS) Human Resources (HR). This list shall be forwarded directly to the Unit Head and the HR Liaison for handling in accordance with the procedures outlined in Section VIII. below.

I. Promotional:

Drug screening/testing shall be conducted prior to any promotion.

J. Triggering Events:

When events occur in a secure care unit or sub-unit that indicate illegal substances have been or are present, screening/testing of all staff who might have contact with that unit (or any of its subdivisions) may be conducted by order of the Unit Head, Regional Director, Assistant Secretary or Deputy Secretary.

VII. SUBSTANCES TO BE TESTED FOR:

As provided by statute, drug screening/testing may be performed for any of the following classes of drugs:

1. Amphetamine (AMP);
2. Barbiturates (BAR);
3. Benzodiazepines (BZO);
4. Cocaine (COC);
5. Marijuana;

6. Methadone (MTD);
7. Methamphetamine (mAMP);
8. MDMA (Ecstasy);
9. Opiate (OPI 300, MOP, MOR, OPI 2000);
10. Oxycodone (OXY); and
11. Phencyclidine (PCP).

This does not preclude testing for any other drugs or alcohol.

VIII. GENERAL PROCEDURES OF THE DRUG TESTING PROGRAM:

A. Random Screening/Testing List

1. PSS HR shall generate the random employee selection list at the prescribed interval and ensure the lists are distributed directly to the Unit Heads and the HR Liaisons on Monday morning of the week the screens/tests for the quarter are to occur.
2. If on the week the quarterly screen/test list is distributed an employee is on leave and his name appears on the list, the unit's HR Liaison shall email the PSS HR contact and request a replacement employee name be provided which shall be selected using the random computer-generated selection process as described in Section VI.E. above.
3. The unit's HR Liaison shall present the randomly selected employees with the "YS Random Employee Drug Screen/Test Notification" form [see Attachment A.2.7(a)]. Employees shall sign, date, and note the time on the form indicating they have been notified to immediately report to the secure care infirmary or the identified OHC for screening/testing prior to the end of their tour of duty. The notification form shall be maintained by the Unit's HR Liaison as described below in Section XI.
4. The unit's HR Liaison shall provide to staff reporting to an OHC with the attached and completed "OHC Employee Health Referral Form" authorized by the Unit Head, which shall include any special instructions.
5. Once notified to report for a drug screen, a secure care employee shall not be allowed to leave the facility prior to reporting to the infirmary for a random drug screen by the CHP, unless the departure is work related and cleared by the Facility Director/Regional Director. Departure from the facility without reporting may subject the employee to disciplinary action.

Once notified to report for a drug screen, regional and central office staff must report to the OHC prior to the end of the business day unless his inability to report is job related and cleared by the Regional Manager/Regional Director, Undersecretary/designee, in which case he must report the following work day.

All employee drug screens/tests must be completed the week the random computer-generated lists are issued to the Units.

6. Employees shall provide a list of all prescription medications they are taking at the time of the test to the Medical Review Officer (MRO) at the OHC.
7. Secure care staff shall be screened initially using the drug screening instruments supplied by the CHP to determine the need for a confirmatory test by an OHC.
8. All screens/tests shall be conducted during the selected employees' work hours; no employee shall be called in on his day/night off or while on approved leave specifically for the purpose of a random drug screen/test.
9. Results of drug screens conducted by the CHP shall be delivered directly to the Facility Director in a sealed envelope.

Results of drug tests conducted by an OHC shall be delivered to the Unit Head on a dedicated Fax line located in the Unit Head's office for confidentiality purposes.

If the results of a drug screen or drug test are "negative", the results shall be hand-delivered by the Unit Head to the unit's HR Liaison, for record keeping in a secured location and for reporting requirements in accordance with Section XI. below.

If the results of a drug screen or drug test are "positive", the Unit Head shall adhere to the procedures outlined in Section X. below. The "positive" results shall be hand-delivered by the Unit Head to the unit's HR Liaison, for record keeping in a secure location and for reporting requirements in accordance with Section XI. below.

IX. POSITIVE DRUG SCREEN / DRUG TEST RESULTS:

- A. If the results of a secure care employee's drug screen is "positive", the Unit Head/designee shall immediately contact the employee to advise them of the following:

1. To report to the unit's HR Liaison to retrieve the "OHC Employee Health Referral Form".
2. They are being escorted off the premises and the possibility of needed transportation.

(If the employee is impaired, the Unit Head/designee shall advise them to contact a person available to provide transportation to an appropriate OHC for a confirmatory drug test. If the employee does not have available transportation, the Unit Head/designee shall designate an employee to transport the impaired employee to the OHC, and then to their residence. If the impaired employee has an automobile at the Unit, the keys shall be retrieved by the Unit Head/designee until it is safe for the employee to retrieve the vehicle.)

3. Their placement on "forced annual leave" if their leave balance is more than 240 hours, or their placement on "leave pending investigation" if their leave balance is below 240 hours, until the results of the confirmatory drug test are received from the OHC.

In the event the OHC is not open for confirmatory testing due to the time/day the screening results are received by the Unit Head, the Unit Head/designee shall inform the employee they are being placed on leave status as outlined in A.3. above, until such time as the OHC is open during regular business hours (Monday-Friday / 8:00 a.m. – 5:00 p.m.) and the test results are received.

The employee shall not be allowed to return to work until the condition is resolved or no earlier than the next scheduled work day if the Unit Head/ Regional Director approves the return to work.

- B. If the results of an employee's confirmatory drug test from the OHC are "positive", the Unit Head/designee shall immediately notify the employee of the test results and of their continued placement on "leave", as outlined in A.3. above, with YS until further notice.

- C. The Unit Head/designee shall immediately notify the Assistant Secretary, appropriate Regional Director, and Legal Services of a “positive” confirmatory drug test, and shall schedule a meeting within 48 hours to discuss the employee’s future status with YS.
- D. A confirmatory test may be utilized in lieu of the initial drug screen at the discretion of the Facility Director/Regional Director, Undersecretary/designee, and may result in disciplinary action.

X. GENERAL PROCEDURES FOR ALCOHOL TESTING:

- A. Alcohol testing shall be conducted by the contracted health care provider (CHP) for secure care staff, and by an Occupational Health Clinic (OHC) for Community Based Services (CBS) and Central Office (CO) staff. Confirmatory testing is not applicable; breathalyzer testing provides necessary results.
- B. In order for an employee to be tested, a supervisor and at least one other person must be a witness to and write a UOR about what objective signs they observed, to include:
 - 1. The odor of alcohol on the employee’s breath or about his person;
 - 2. Red and/or bloodshot eyes;
 - 3. Impaired balance;
 - 4. Impaired speech; and
 - 5. Admissions the employee makes about when and how much alcohol he has consumed.
- C. The procedures in Section IX shall be adhered to relative to:
 - 1. Reporting to an CCS/OHC;
 - 2. Escort off the premises;
 - 3. Placement on leave;
 - 4. Notifications to appropriate staff, and
 - 5. Consultation with Legal Services.

XI. RECORD KEEPING AND REPORTING REQUIREMENTS:

- A. The unit’s HR Liaison is required to maintain records of the following:
 - 1. Each employee who has submitted to a drug screen or drug/alcohol test;
 - 2. The date of such screen/test;

3. The name of the person or OHC performing the screen/test;
 4. The number of screens/tests performed; and
 5. Results of the screens/test.
- B. The secure care facility HR Liaison shall provide Continuous Quality Improvement Services (CQIS) with a monthly facility report of employee confirmatory drug test activities conducted by the OHC for quality assurance purposes on the 10th day of the month following the quarter (October/January/April/July). The report shall include the following indicators:
1. The categories of tests conducted;
 2. The number of tests conducted by category;
 3. The number of “positives”;
 4. The percentage of “positives”, and
 5. The number of “negatives”.
- C. The Health Services Administrator (HSA) shall provide Continuous Quality Improvement Services (CQIS) with a secure care facility monthly report of employee drug screening/alcohol testing activities for quality assurance purposes on the 10th day of the month following the quarter (October/January/April/July). The report shall include the following indicators:
1. The categories of screenings/tests conducted;
 2. The number of screenings/tests conducted by category;
 3. The number of “positive’s”;
 4. The percentage of “positive’s; and
 5. The number of “negatives”.
- D. All drug screens and drug/alcohol test results shall be retained for a minimum of five (5) years by the unit’s HR Liaison in a secured location pursuant to YS Policy No. A.1.2.
- Legal Services shall be consulted prior to the destruction of these records due to possible pending litigation.
- E. All information, interviews, reports, statements, memoranda and/or test results received through the Unit’s drug testing program are confidential communications, pursuant to La. R.S. 49:1012 and may not be used or received in evidence, obtained in discovery or disclosed in any public hearing or private proceedings, except in an administrative or disciplinary proceeding or hearing or civil litigation where drug use by the tested individual is relevant.

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All such confidential information shall be maintained in a secure manner by the unit's HR Liaison.

- F. By November 1st of each year, each Unit Head shall submit a report to PSS HR detailing the following:
 - a. Number of employees affected by the drug testing program,
 - b. The categories of screens/tests conducted,
 - c. The associated costs of screening/testing, and
 - d. The effectiveness of the program.
- G. By December 1st of each year, in conjunction with the Deputy Secretary/ designee, PSS HR shall compile the "YS Annual Drug Testing Report" [see Attachment] for submission to the Office of the Governor through the Division of Administration.

XII. TRAINING REQUIRED:

- A. A minimum of one (1) hour of training per year on the effects and consequences of controlled substance abuse on personal health and safety at the workplace, and indicators of substance use or abuse is required for all full time employees.
- B. All training shall be documented in TREC by the Unit's designated staff.

XIII. IMPLEMENTATION:

This policy is effective immediately upon approval.

Previous Regulation/Policy Number: A.2.7

Previous Effective Date: 05/18/2012

Attachments/References:

